

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 1

1 UNITED STATES DISTRICT COURT
2
3 UNITED STATES OF AMERICA,) Case No. 2:19-cr-00133-APG-VCF
4 Plaintiff,)
5 v.) Las Vegas, Nevada
6 MIRIAM SUAREZ-CONTRERAS,) Wednesday, December 28, 2022
7 Defendant.) 9:07 a.m. - 10:21 a.m.
) Courtroom 6C
) IMPOSITION OF SENTENCE
)
) **C E R T I F I E D C O P Y**
)

10 | REPORTER'S TRANSCRIPT OF PROCEEDINGS

THE HONORABLE ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE

APPEARANCES: (See next page.)

15 REPORTED BY: PAIGE M. CHRISTIAN, RPR, CRR, CCR #955
16 United States District Court
333 South Las Vegas Boulevard
Las Vegas, Nevada 89101

24 Proceedings reported by machine shorthand.
Transcript produced by computer-aided transcription.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 2

1 **APPEARANCES:**

2
3 For the government:

4 **MELANEE SMITH, AUSA**
5 *UNITED STATES ATTORNEY'S OFFICE*
501 Las Vegas Boulevard, South
Suite 1100
6 Las Vegas, NV 89101
(702) 388-6068
7 E-mail: melanee.smith@usdoj.gov

8 For Defendant Miriam Suarez-Contreras:

9 **RICHARD E. TANASI, CJA**
10 *TANASI LAW OFFICES*
8716 Spanish Ridge
11 Suite 105
Las Vegas, NV 89148
12 (702) 906-2411
13 E-mail: rtanasi@tanasilaw.com

14
15
16
17
18
19
20
21
22
23
24
25

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 3

1 LAS VEGAS, NEVADA; WEDNESDAY, DECEMBER 28, 2022; 9:07 A.M.

2 --oo--

3 P R O C E E D I N G S

4 **COURTROOM ADMINISTRATOR:** Do you solemnly swear that
5 you will well and truly interpret from the English language into
6 the Spanish language and vice versa according to the best of your
7 knowledge and ability, so help you God?

8 **THE INTERPRETER:** I do.

9 **COURTROOM ADMINISTRATOR:** Please state and spell your
10 name.

11 **THE INTERPRETER:** Sure. Judith Jenner, J-E-N-N-E-R,
12 federally certified Spanish court interpreter.

13 **COURTROOM ADMINISTRATOR:** Thank you.

14 (A recess was taken from 9:01 a.m. to 9:07 a.m.)

15 (All statements made by the defendant given through the use
16 of the Spanish interpreter, unless as otherwise indicated
17 "In English.")

18 **COURTROOM ADMINISTRATOR:** All rise.

19 **THE COURT:** Thank you. Please be seated.

20 **COURTROOM ADMINISTRATOR:** United States vs. Miriam
21 Elizabeth Suarez-Contreras, 19-cr-00133-APG-VCF. This is the
22 time set for imposition of sentence.

23 Counsel, please make your appearances.

24 **MS. SMITH:** Good morning, Your Honor. Melanee Smith
25 on behalf of the government.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 4

1 THE COURT: Good morning.

2 **MR. TANASI:** Good morning, Your Honor. Richard
3 Tanasi for Miriam Suarez, who is present and in custody.

4 | **THE COURT:** Good morning to you, as well.

5 Good morning Ms. Suarez.

6 **OFFICER CONOVER:** Good morning, Your Honor. Tiffany
7 Conover with United States Probation.

8 THE COURT: Good morning to you, as well.

9 Ms. Suarez-Contreras, do you go by Suarez?
10 Suarez-Contreras? Contreras? What's your preferred name?

11 | **THE DEFENDANT:** Suarez-Contreras.

12 **THE COURT:** All right. Good morning to you, ma'am.
13 On June 29th of this year, you pleaded guilty to the
14 charge of conspiracy to distribute a controlled substance,
15 specifically, methamphetamine. Today is the hearing set to
16 impose sentence upon you for that crime.

17 Mr. Tanasi, you reviewed the presentence report,
18 correct?

19 | MR. TANASI: Yes, Your Honor.

20 **THE COURT:** And discussed it with your client?

21 | MR. TANASI: Yes, Your Honor.

22 **THE COURT:** Are there any factual errors or mistakes
23 we need to fix in the presentence report?

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 5

1 the designation or the finding of leadership, the adjustment
2 there, and then the ramification related to the safety valve,
3 which we'll save for our arguments at sentencing.

4 And then, also, the reference to gang membership.

5 Ms. Suarez-Contreras does still adamantly dispute any -- any gang
6 affiliation or any gang membership. And that's the important
7 thing to remove from the -- the report because it does follow her
8 into BOP and into designation, potentially, as well. So those
9 are the only two factual --

10 **THE COURT:** All right. Thank you, Mr. Tanasi.

11 Ms. Suarez-Contreras, did you have a chance to read
12 the presentence report, or was it translated for you into
13 Spanish?

14 **THE DEFENDANT:** Yes.

15 **THE COURT:** Did you discuss it with your attorney?

16 **THE DEFENDANT:** Yes.

17 **THE COURT:** Was Mr. Tanasi able to answer all of your
18 questions about that document?

19 **THE DEFENDANT:** Yes.

20 **THE COURT:** Are you aware of any errors or mistakes
21 that need to be fixed in that report?

22 **THE DEFENDANT:** No.

23 **THE COURT:** There are some objections filed to the
24 presentence report. Let's address those first. These are
25 summarized on pages 34 through 36 of the presentence report.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 6

1 Objection No. 1 is to whether Ms. Suarez-Contreras
2 qualifies for the safety valve. We'll hold off on that for a few
3 minutes and come back to that.

4 Objection No. 2 is the three-level addition under
5 3B1.1(b).

6 Again, my recollection is this is the safety valve
7 issue, correct?

8 **MR. TANASI:** That's correct, Your Honor.

9 **THE COURT:** Yeah. So we'll hold off on that, as
10 well.

11 Objection No. 3, looks like that's been resolved
12 because part C was updated to reflect that.

13 Is that correct, Mr. Tanasi?

14 **MR. TANASI:** That's correct, Your Honor.

15 **THE COURT:** All right. So that's been resolved.

16 Objection No. 4 is the gang classification, at least
17 the -- the reference to reflect the defendant's -- well, let me
18 start over.

19 The objection is to the mention in the PSR to the
20 Sureno 13 Gang. Officer Conover revised the PSR to add the
21 defendant's denial of that involvement.

22 Mr. Tanasi, is that sufficient to address your
23 concern?

24 **MR. TANASI:** Your Honor, again, I would still submit
25 that there wasn't a gang-related charge in this particular case.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 7

1 She has not pled guilty to any gang-related charge in this
2 particular case. It's a drug case. And so, by preponderance of
3 the evidence, I would say that there's no factual connection that
4 states that Ms. Suarez-Contreras was a gang member, again, not
5 disputing her role in the drug conspiracy, disputing that she is,
6 in fact, a gang member. And so, anything related to that has
7 really haunting effects on her as she travels through the BOP,
8 and so I think it's important to remove that.

9 If you look at subsection C, it says, Any information
10 that, if disclosed, might be -- or might result in physical -- or
11 harm to the defendant and others.

12 And so, again, having this allegation that she's
13 directly/indirectly affiliated with a gang, a gang member of some
14 kind, again, has very daunting consequences for her. And so, I
15 think it's important to remove that entirely from the report.

16 **THE COURT:** All right. Ms. Smith, what's the
17 government's position on that?

18 **MS. SMITH:** Your Honor, the government's position is
19 consistent with probation that it should stay in. They have made
20 clear that Ms. Suarez-Contreras has denied any gang involvement.
21 She's never alleged by -- in the PSR to be a gang member herself,
22 merely that the drug trafficking organization had members of the
23 gang in it.

24 These are -- these are facts for -- you know, it
25 starts to get tricky when you start to omit facts. And while I

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 8

1 understand that this may impact her potentially while in the
2 Bureau of Prisons, so could the fact that she was the leader of a
3 drug organization.

4 So I think that consistent with probation, the way
5 it's written that she -- she is never alleged by probation to
6 herself be a gang member. It includes her denial. So I think it
7 should remain the way it is.

8 **THE COURT:** Officer Conover, anything further on that
9 point?

10 **OFFICER CONOVER:** No, Your Honor. Just as the
11 attorney has stated, it does not ever state in the paragraph that
12 she was, in fact, a gang member, just that through the
13 conspiracy, there was affiliation.

14 **THE COURT:** Okay. And I'm looking at paragraph 137
15 of the PSR. It makes a reference, and it specifically states
16 that other individuals were believed to be members of the -- of
17 the Sureno 13 Gang. And we've added the paragraph that she
18 denies any involvement, so I'm going to overrule that objection.

19 Objection No. 5 is to the finding in the PSR that no
20 factors under 3553(a) warrant a variance. I'm going to leave
21 that for argument at the time of sentencing --

22 **MR. TANASI:** Thank you, Your Honor.

23 **THE COURT:** -- when we get to that. So I'll overrule
24 that objection technically, but I'll allow you to argue that when
25 we get to the sentencing phase.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 9

1 **MR. TANASI:** Understood. Thank you.

2 **THE COURT:** Okay. That resolves the objections that
3 were previously made.

4 Are there any additional objections today?

5 **MS. SMITH:** Not from the government, Your Honor.

6 **MR. TANASI:** Not from the defense, Your Honor. Thank
7 you.

8 **THE COURT:** All right. Thank you.

9 When I impose sentence, I have several things I have
10 to look at. First, I'll look at the statute that Congress has
11 passed to determine what the maximum sentence is and whether
12 there's any mandatory minimum sentence that I have to impose.
13 Here, the relevant statute calls for a prison term of up to life,
14 and there's a mandatory minimum of ten years in prison that has
15 to be imposed, unless you qualify for the safety valve, which
16 we'll talk about a little bit later.

17 Under the statute, I have to impose a term of
18 supervised release of at least five years, and that can be up to
19 a lifetime of supervision. I can impose a fine of up to \$10
20 million, and I have to impose a special assessment of \$100.

21 I then look at the sentencing guidelines that have
22 been adopted by the United States Sentencing Commission. Those
23 guidelines are contained in a thick book that has a lot of
24 factors that I have to consider.

25 The guidelines are created to help judges like me

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 10

1 come up with an appropriate sentence. They're also designed, in
2 part, to help judges sentence people across the country to
3 somewhat similar sentences if the circumstances are similar.

4 The guidelines recommend a sentence based upon two
5 main broad categories. One is the nature of the crime you've
6 committed, and the second is your criminal history. And there
7 are, like I said, many, many factors that come in under those two
8 broad categories.

9 Here, Officer Conover helped me calculate the offense
10 level. The base offense level to start with is 36. Two levels
11 were added because you involved a minor, a juvenile, in your
12 criminal activities. Another two levels were added because you
13 were an organizer, leader, manager, or supervisor in the
14 organization, and then three levels were taken off because you
15 timely accepted responsibility. That yields a total offense
16 level of 37.

17 Now, as Mr. Tanasi previewed, there are two issues
18 for calculating that offense level that the parties have reserved
19 to resolve today: First, were you a manager or supervisor under
20 guideline section 3B1.1, and do you qualify for the safety valve?

21 Now, those, in a sense, are tied together because if
22 you're a manager or supervisor, then you don't qualify for the
23 safety valve. I have read the defendant's memorandum, and I read
24 the government's that was filed. I just got that this morning.
25 I have read that.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 11

3 MR. TANASI: I have, Your Honor.

6 MR. TANASI: Yes, Your Honor.

7 **THE COURT:** All right. So if either side has any
8 additional arguments you want me to consider beyond the papers,
9 go ahead.

10 Ms. Smith, you want go first.

11 **MS. SMITH:** Yes. Thank you, Your Honor. And I
12 apologize for the late filing of that. With the holidays, it got
13 a little tricky.

14 Your Honor, first I want to address the issue of
15 safety valve and whether or not Ms. Suarez-Contreras was an
16 organizer or supervisor. In this case --

17 | **THE COURT:** And let's -- I'm sorry. I did interrupt.

18 Let's limit it to that, and then we'll get to the
19 sentencing factors later.

20 | MS. SMITH: Oh.

21 **THE COURT:** So first I want to get to the calculation
22 of the guideline range only, so focus on the safety valve and the
23 leadership role.

24 MS. SMITH: Absolutely, Your Honor.

25 | THE COURT: Great.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 12

1 **MS. SMITH:** So in this case -- and I noted quite a
2 bit of this in the memorandum I submitted last night, but it's
3 the government's position that the defendant was both a
4 supervisor and qualifies under organizer. What the case law
5 shows to be an organizer is actually quite a bit less than
6 supervisor, leader, or manager. But I do believe she qualifies
7 under supervisor, just on the -- on the plain reading of what the
8 sentencing guidelines say is a supervisor, which is that the
9 defendant must have been the organizer, leader, manager, or
10 supervisor of one or more other participants.

11 Well, we know that she was. We know that on several
12 dates at the beginning of the investigation, Barajas was sent to
13 deliver drugs. People would call up the defendant, negotiate the
14 transaction, negotiate the prices. There's times that during
15 calls that were intercepted where the -- the CS, the confidential
16 source, wanted to do the deal at a casino. And the defendant
17 said, No. I don't like it. We're not doing it at a casino.
18 You're going to do it here.

19 And she would send them to a different location. She
20 was very aware of sort of law enforcement, the potential of
21 getting caught, and then she would direct Barajas where to go,
22 how much to deliver, how much he was supposed to get paid.

23 At one point, when we're talking about the defendant
24 negotiated a transaction and sent the customer to the apartment
25 of Henderson and Mata, two co-defendants who have already pleaded

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 13

1 guilty and been sentenced, and while there, the customer wanted
2 four ounces. It was -- the confidential source wanted four
3 ounces, but her runner had eight ounces and didn't know what to
4 do.

5 What do you do?

6 You call the boss. They called the defendant, and
7 the defendant said, Well, cut it in half and then give him just
8 the four ounces. Don't give him the whole thing.

9 Then, we move on. And at one point, Barajas calls
10 the confidential source and says, Hey, one of her other runners
11 got picked up by the police. We're worried. But don't worry.
12 We have a replacement runner already in place. This is going to
13 be the new runner.

14 So then, later, we have this juvenile, this
15 17-year-old kid or a kid under the age of 18 who, as I detailed
16 in my motion papers on at least eight different occasions, for
17 this defendant, delivered methamphetamine to customers.

18 And at one point, the confidential source told
19 this -- this juvenile, Hey, I want to order from you.

20 He said, No, no, no. You have to call Ella. You
21 have to call the defendant. That's who does the deals.

22 She was supervising all of these runners. She is
23 absolutely a supervisor. But, under the case law, that's not
24 even the requirement. And I first also want to address some of
25 the arguments that the defendant made in their memorandum that

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 14

1 she's not the supplier, so she can't be -- she can't qualify.
2 But then they also argue even if she was the supplier, the courts
3 say that's not enough.

4 Nobody's suggesting -- every person is supplied by
5 somebody, right? The chain just keeps going up and up. No one's
6 suggesting she's the head of the Sinaloa Cartel or that she's
7 running one of the clandestine labs in Mexico that creates all of
8 this meth. Everybody is ultimately supplied by somebody. She
9 was, of course, getting supplied by somebody, and in turn, she
10 was using these other people to distribute it while she was in
11 California, a very common hierarchy that we've seen.

12 But the Ninth Circuit has said you don't even need to
13 necessarily supervise other participants. A defendant who has
14 the organizational authority necessary to coordinate the
15 activities of others to achieve a desired result is an organizer
16 for purposes of the enhancement under Section 3B1.1(c).

17 Well, we know she was the one coordinating and
18 organizing all the activities, right? Somebody would call her
19 up, order a certain quantity of methamphetamine. The defendant
20 would then dispatch a runner to a location directed by the
21 defendant, a time directed by the defendant, and would deliver
22 the drugs that were ordered from her. She was organizing the
23 entire transaction.

24 And an enhancement may be proper, whereas here, a
25 defendant organizes the criminal activity even though he does not

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 15

1 retain a supervisory role over the other participants. The
2 enhancement reflects greater level of culpability of the
3 participant who arranges the transaction. That's exactly what's
4 happening here.

5 She is at the top of the indictment for a reason.
6 Every person who was arrested -- Henderson, Mata, Barnes,
7 Scarborough, Stumpf, all of them -- Oh, I called Ella. Ella's
8 who gives me my drugs. Everything goes through Ella.

9 Barnes said she's been going through Ella for the
10 past three years that this has been going on. And all of them
11 said, Oh, yeah. She uses this skinny kid to run for her on her
12 behalf. Every person on -- that we've seen so far appeared in
13 this courtroom because of this defendant. She is at the top for
14 a reason. She is the one running the show.

15 This enhancement absolutely applies. She is not
16 eligible for safety valve relief. And I would ask that the Court
17 to find that the aggravating role applies and apply not only the
18 plus two, but disqualify this defendant from safety valve.

19 **THE COURT:** Thank you, Ms. Smith.

20 Mr. Tanasi.

21 **MR. TANASI:** Thank you, Your Honor.

22 Should approach the lectern?

23 **THE COURT:** You can stay there. If you got your
24 notes, there's fine.

25 **MR. TANASI:** Thank you, Judge.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 16

1 **THE COURT:** Just pull the microphone up so we get
2 your voice.

3 **MR. TANASI:** Will do. Thank you.

4 **THE COURT:** Thank you.

5 **MR. TANASI:** Briefly, Your Honor, and starting off
6 the argument relating to the organizer, leader, and safety valve
7 component --

8 **THE COURT:** Yeah. Let's limit it to that.

9 **MR. TANASI:** Your Honor framed, sort of, where we're
10 at with the guidelines, and I wanted to, if the Court will allow,
11 just jump backwards for a second.

12 The parties do also all agree that there is a
13 two-level reduction for the group plea component of things which
14 takes us from a 37 to a 35.

15 **THE COURT:** Actually, I was going to get to that,
16 because, Ms. Smith, there's two that I was going to get to a
17 little bit later. But just so we're clear, in the plea agreement
18 at page 11 -- well, prior to that, there's the two-level group
19 plea.

20 There's also, in paragraph 19 of the plea agreement
21 at page 11, that if the offense level is 38 or higher, then the
22 attorney -- U.S. attorney will recommend a two-level downward
23 variance. So if I don't find safety valve and it stays up at 38,
24 the government will still recommend an additional two-level
25 reduction.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 17

1 I don't know if Mr. Schiff negotiated this one or not
2 and you inherited this case or whatever, but I didn't see that
3 mentioned in your brief.

4 **MS. SMITH:** You're right. A little bit -- it was a
5 little bit of both. Yes, Your Honor. So if it's 38 or higher
6 before operation of the acceptance for responsibility --

7 **THE COURT:** Right.

8 **MS. SMITH:** -- we will recommend a two-level downward
9 variance. Part of the agreement was that there would be sort of
10 a cap on --

11 **THE COURT:** Makes sense.

12 **MS. SMITH:** Yeah.

13 **THE COURT:** Okay. Just so we're all on the same
14 page. So I'm going to hold off on those issues until I make the
15 determination whether the -- whether the safety valve applies.
16 But yes, the group plea will certainly apply. I just held off on
17 that, on the calculation first.

18 **MR. TANASI:** Understood, Your Honor. I apologize for
19 complicating --

20 **THE COURT:** No. I'm glad. Let's be clear here.
21 Yeah.

22 **MR. TANASI:** So turning, Your Honor, to the
23 organizer, leader, supervisor enhancement that the government's
24 seeking, I would submit that it doesn't apply in this case.
25 Starting with the guilty plea agreement and the terms under which

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 18

1 Miriam pled to, which was that she is a dispatcher in this case,
2 okay, dispatcher of -- of the drugs that were distributed, and
3 that, essentially, Your Honor, lands her as sort of a middle
4 woman in the organization, not a leader, not a supervisor, not an
5 organizational organizer.

6 Your Honor, I would turn your attention to just some
7 of the -- the cases that we cited in -- in our brief,
8 particularly, the ^ Hoppe case, which says, The government must
9 prove the defendant exercised some control over others in the
10 commission of the offense. It's not enough that the defendant
11 was more culpable than others who participated in the crime.

12 And additionally, while defendant provides
13 significant amounts of drugs to the conspiracy, which there's no
14 dispute Miriam certainly did, her status or his status as a
15 supplier or distributor is already reflected in his base level
16 offense. Status as a supplier or distributor without more is
17 insufficient to support a managerial enhancement in this case.

18 Your Honor, I would just urge the Court to go to the
19 very beginning of the investigation where the FBI was applying
20 for applications and for search warrants and in doing so, laid
21 out their view of the structure of -- of the organization. As we
22 cited in -- in our brief, the -- one of the particular
23 applications, Exhibit E, all deliveries of the methamphetamine
24 were directed from an unknown person in Mexico.

25 I would submit, Your Honor, that that's our leader.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 19

1 That's our organizer. That's our supervisor. That's not Miriam.

2 Additionally, law enforcement reported that P.Z.

3 said Primo is the narcotics supplier in Tijuana. Primo advises
4 Pineda and PZ when to expect delivery of their drug supply, then
5 directs them where to deliver the drugs.

6 Again, Your Honor, that's our leader, and that's our
7 organizer. That's our supervisor.

8 Lastly, I would argue that at one point, the FBI
9 actually identified Miriam as a low-level dealer. In fact, the
10 application went on to say Miriam's supplier -- Miriam's supplier
11 is particularly important because without arresting suppliers,
12 other low-level dealers will simply fill the void left by the
13 arrest of a low-level conspirator.

14 And so, the government's words early on in the
15 investigation identified Miriam as a low-level individual.

16 Fast forward to where we are today, I understand the
17 government's not saying she's the leader of the cartel, but she
18 sits atop the indictment in this case. And that's, again, by the
19 government's own design, not by Miriam's, and so that charging
20 document does not bind Your Honor in this determination today.

21 The facts that peel back underneath the case do, and
22 I think the facts demonstrate that in this case, Miriam was
23 simply nothing more than a middle person in the organization, not
24 a leader, not someone who should be enhanced in any way, and then
25 have that domino sort of fall where if she is enhanced as a

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 20

1 leader or organizer, she automatically is ineligible for the
2 safety valve, which I would submit that the parties agree all
3 other factors of the safety valve apply in this case except for
4 this one particular factor.

5 So with that, Your Honor, I'll submit it.

6 **THE COURT:** Thank you. Let me catch my notes up here
7 for a second, see if I have any questions for you.

8 **MR. TANASI:** Sure.

9 (*Pause.*)

10 **THE COURT:** Got the two that I was going to ask you.
11 Thank you.

12 **MR. TANASI:** Thank you.

13 (*Pause.*)

14 **THE COURT:** All right. So, first, I'll note that in
15 the plea agreement, the parties agree to a two-level increase for
16 the use of a minor under Sentencing Guideline 2D1.1(b) (16) (B) (1).
17 That finding or that enhancement section begins by saying, If the
18 defendant receives an adjustment under 3B1.1.

19 So implicit in the two-level increase for the use of
20 a minor is defining that there's an adjustment under 3B1.1.

21 Regardless, the parties reserved the right to argue
22 this, so I'm not basing my decision upon that. I just note
23 that's a bit of an interesting point in the sentencing -- in the
24 plea agreement. Regardless, I'm making an independent
25 determination whether she qualifies for safety valve and whether

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 21

1 she's a leader under 3B1.1.

2 I do find that she was an organizer or supervisor.
3 She took orders. She directed several different people to
4 fulfill them, made changes when there were changes in the sense
5 of the field or problems developed in the field, redirecting
6 where to go, cutting one of the deliveries in half, directing a
7 minor on at least seven or eight occasions to make deliveries for
8 her.

9 Under the language of 3B1.1, particularly at
10 Application Note 2, where she only had to supervise, organize, or
11 manage one or more participants, that's sufficient.

12 Theoretically, she could qualify for an even higher
13 aggravating role under 3B1.1(a) or (b), but the parties aren't
14 seeking that. I'm not going to impose that.

15 I do, though, find that she is considered an
16 organizer or supervisor under 3B1.1, and therefore, the two-level
17 enhancement under 3B1.1 -- well, let's double-check this, now
18 that I think about it.

19 Yes. I'm sorry. Under paragraph 111 of the PSR,
20 there's a two-level enhancement under 3B1.1(c), so I do confirm
21 that. I also find that she does not qualify for the safety valve
22 because of her leadership role. And therefore, I affirm the
23 probation office's calculation of the total offense level up to
24 that point.

25 There are additional downward variances that the

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 22

1 parties have negotiated. We'll talk about those in a few
2 minutes.

3 All right. Officer Conover calculated you as having
4 zero criminal history points. That puts you in Criminal History
5 Category 1 under the sentencing guidelines. And so, with a total
6 offense level of 37 and a criminal history category of 1, the
7 guidelines recommend a prison sentence of 210 to 262 months in
8 custody and five years of supervised release and a fine in the
9 range of 40,000 to 10 million dollars.

10 I will impose the two-level downward variance for the
11 group plea, and I'm inclined to follow the plea agreement's
12 recommendation of an additional two-level at the government's
13 suggestion. We'll get to those again in a few minutes, but that
14 would further reduce the guideline range.

15 As I mentioned at the beginning, I consider the
16 statute that Congress has passed. I look at the sentencing
17 guidelines. And there's another set of factors I have to
18 consider under 18 U.S.C. section 3553(a). We'll address that in
19 a minute.

20 First, just let me hear if either side has anything
21 additional to add under their sentencing -- or in addition to
22 their sentencing memoranda. I'll note for the record I have
23 reviewed the presentence report, the charging document, the plea
24 agreement, both sides' memoranda, and the many, many letters of
25 support that were offered and the certificates of completion of

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 23

1 coursework at Nevada Southern Detention Center. But, if either
2 side has additional comments, now is the time.

3 Ms. Smith.

4 **MS. SMITH:** Thank you, Your Honor. Your Honor,
5 whenever we come into court, particularly, this court on a case
6 such as this, where there's a drug conspiracy involved, the
7 question we always first ask is, what was this defendant's role
8 in the conspiracy?

9 I think we've established within this conspiracy her
10 role was that she was at the tip of the spear. She was the one
11 running the show.

12 And when I read through the PSR and the defendant's
13 sentencing memorandum, which I've read several times, the very
14 first thing that struck me and the thing that I'm still struck
15 by, there is not an ounce of contrition in either.

16 When the defendant had the opportunity to give her
17 side to probation, she never acknowledges her -- her conduct or
18 the impact it's had on the community or apologizes. The farthest
19 it goes -- usually, in a defendant's sentencing memorandum, it's
20 almost overcompensating with how sorry they are, and, you know,
21 I'll never do it again. We don't see that here at all. The
22 farthest it goes is the defendant has respect for the law. In
23 fact, there was one paragraph where that was used twice.

24 But it never says she understands the impact. And
25 the reason this is important is throughout this conspiracy, she

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 24

1 was using a child. She introduced a child into criminal conduct,
2 and at the time that that was happening, her son would have been
3 the same age as the child she was using to deliver drugs.

4 So when I look at all of these letters about how much
5 she loves her children and the community -- and I don't doubt
6 that that's true, but what strikes me is that she is using a
7 child the same age as her own son, introducing them to this
8 criminal element, this dealing drugs.

9 And as we know, the drug trade is inherently
10 dangerous. There were at least two occasions in this
11 investigation where somebody showed up with a gun to a drug
12 transaction.

13 So we're sending -- she's sending a child into that
14 environment. She -- this juvenile delivered drugs to Brian
15 Scarborough, who right afterwards was found to have a gun. She's
16 putting him not only in -- introducing him to crime, but sending
17 him into inherently dangerous situations where he could be hurt
18 or killed, a child the same age as her son.

19 There's no addressing this why she engaged in this
20 conduct. Renea Barnes, when she was arrested, said, Oh, yeah.
21 I've been going to Ella for like three years.

22 In this case, the defendant admitted that at least
23 4.6 kilograms was foreseeable to her in this conspiracy. Well,
24 that's just during the course of this investigation. If she's
25 been doing this for three years, that number is exponentially

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 25

1 larger. But just taking that number, 4.6 kilograms, the average
2 user buys quantities of an eighth of an ounce, an 8-ball, or a
3 16th of an ounce, which is a teener.

4 Taking the larger amount, the eighth of an ounce,
5 just for -- that's over 1300 separate little baggies of
6 methamphetamine. If you take it and break it down to a 16th of
7 an ounce, it's double that. And that's just in the few months
8 she was being investigated. That doesn't take into account all
9 of the drugs we don't know about.

10 And yet, there's not a single I'm sorry for the
11 impact I've had on the community. And what strikes me more, in
12 the PSR, she says that her own father was addicted to alcohol and
13 drugs, and that caused a lot of instability. And yet, here she
14 is putting this into all of these other families, contributing to
15 this misery in all of these other families.

16 And I want to touch on that issue with her father
17 that, you know, in the PSR and in her own sentencing memorandum,
18 that it was her father who created this instability and all of
19 these things. And yet, in the letter written by her aunt,
20 Alejandra Contreras-Moreno, she was very sad because she was not
21 able to see and say farewell to her dying father who she so
22 loved, who was her moral and her strength. In another letter
23 submitted, it says she was very attached to her dad.

24 And so, I'm -- it's a little incongruous with the PSR
25 and the defendant's own argument that it was part of why she kind

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 26

1 of has had this horrible life and ended up where she is, is
2 because of her father. Yet according to her own relatives, her
3 and her father were incredibly close. He was her moral strength.
4 So I -- I'm just -- there's an incongruity there that has not
5 been addressed.

6 She told probation she doesn't suffer from mental
7 health issues. She has no substance abuse issues. She's
8 clear-minded. She's making these choices.

9 I also was a little caught off guard by one of the
10 arguments in the defense that there's sort of this duress issue.
11 We've been negotiating this case for years. Never once has there
12 been this mention of duress, she was pressured, and there's just
13 one paragraph asking the Court to take this into account when
14 determining the appropriate sentence that she felt pressured from
15 dangerous people to start and maintain her work in the
16 conspiracy. There's no context. There's no further explanation.
17 But then it asks the Court to take that into account and give her
18 a lesser sentence as a result.

19 And so, beyond that, there's absolutely no
20 explanation for her offense conduct in this case, for why she was
21 putting all of these drugs out in the community. And the reason
22 we go back to the role and the reason there is a mandatory
23 minimum for certain people but not for others is because of the
24 impact that it ultimately has on the community.

25 This runner might impact this handful of people he

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 27

1 delivers to; this runner, this handful of people; but the
2 defendant at the top, she's impacting all of those people in this
3 case, potentially thousands. And that's what the problem is.
4 And that's why we are asking for the sentence that we're asking
5 for.

6 So in addition to all of the arguments contained in
7 my sentencing memorandum and what I said today, I do believe
8 there is a discrepancy in the sentencing memorandum that I
9 submitted in that I based my recommendation on a total offense
10 level of 35. The government did agree to recommend an additional
11 two levels, which would be 33.

12 With a criminal history category of 1, that is a
13 135-month sentence, which really isn't that much more than the
14 bare minimum she can get, which is 120 months.

15 I do think five years of supervised release is
16 appropriate in this case. I think this is somebody who needs to
17 be supervised.

18 Not asking for a fine. That doesn't seem appropriate
19 here.

20 So, Your Honor, with that, I'll submit.

21 **THE COURT:** Thank you, Ms. Smith.

22 (Pause.)

23 **THE COURT:** Mr. Tanasi, thank you for your patience.

24 **MR. TANASI:** Thank you, Your Honor.

25 May I proceed?

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 28

1 THE COURT: Yes, please.

9 I will say that I normally don't do this, and that's
10 interject, sort of, my personal vouching for a client. The four
11 years that I've gotten to know Miriam -- and it's been four years
12 -- I can say she's one of the most genuinely sweet, kind, caring
13 individuals that I've had the pleasure of representing. And I go
14 one step further to say that I've witnessed the tears of her
15 contrition over those four years.

16 Her family is here to show that support and to be
17 behind her, and she is devastated about what her choices and her
18 decisions have caused and what her choices and her decisions have
19 propelled her family to all come here from out of state to
20 support her and the impact that her decisions have caused and in
21 detriment to society. She knows that full well.

22 I would also say that the argument that there's some
23 sort of incongruent argument that her father -- or there was
24 issues that she had in being raised and abuse that she might have
25 suffered, you may note that our -- our sentencing memorandum was

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 29

1 filed under seal, in part, because some of that stuff is pretty
2 personal to her and not necessarily known to the entire family,
3 we'll say, all of the details.

4 I will also say that a cycle of abuse is just that.
5 A cycle of abuse in a mitigation context causes instability. So
6 in other words, instability breeds instability. That's exactly
7 what we have here.

8 And so, while there may be sort of this appearance of
9 a stable-minded, calculated individual, I would submit that
10 Miriam suffered a whole lot of tragedy and a whole lot of abuse
11 and have -- has been in a whole lot of unstable situations, which
12 caused her to make poor, unstable decisions, which also leads
13 into the duress argument we presented.

14 And yes, that was not negotiated in this particular
15 case. I will point out for the record that prior to Ms. Smith's
16 involvement in the case, there was another prosecutor in the
17 case. And in that setting, there were discussions about
18 potential cooperation.

19 However, out of sheer fear at its most primal core
20 for folks that live back in Mexico that she was never going to
21 say a single word about and still has not said a single word
22 about, we couldn't necessarily advance a meaningful duress
23 argument, nor could we advance any cooperation in this case, and
24 that's why we're not asking for anything related to substantial
25 assistance or anything along those lines because of the inherent

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 30

1 fear that, quite frankly, very few of us in this courtroom could
2 ever really understand.

3 I will point out, as Your Honor did mention, there
4 are several letters of support for Miriam. 30-plus, I think, is
5 the number I end on with certifications of things that Miriam has
6 done while in confinement to try to better herself and try to be
7 productive.

8 Again, I have plenty clients who don't necessarily
9 act productively and do things in a way that tries to help
10 themselves or help their situation. Oftentimes I'm arguing
11 before the Court to not really factor all of the alleged
12 incidents that are in the pre- -- presentence report that came
13 out of their conduct while they were in custody for four years.

14 I don't have to do that in this case because Miriam
15 instead took that opportunity to try to better herself over the
16 course of four years. And not only that, work. Again, I don't
17 have a whole lot of clients who spend time actively working, you
18 know, as a porter, cooking, cleaning, doing things to just try
19 and be as productive as she can.

20 Doesn't have to minimize her role in the offense. I
21 would submit to Your Honor that the -- the mandatory minimum of
22 120 years -- 120 months is appropriate. I think that the statute
23 and the mandatory minimum contemplates the appropriate sentence.

24 The guidelines, I do understand the role adjustments,
25 and I do respect the Court's position. I still respectfully

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 31

1 disagree, but I respect the Court's decision there.

2 And I will say that the guidelines follow the Court's
3 decision, and that particular case shouldn't necessarily drive
4 ultimately what the Court's decision is. The 355- -- 3553
5 factors in this case, I think, Your Honor, can lead the Court to
6 a finding of 120 months, the mandatory minimum.

7 Again, pointing out the character, which we talked
8 about at length, the abuse, and the issues that she suffered
9 growing up, the nature and circumstances of the offense, I think
10 it's important to note that there was no violence at all that
11 surrounded Miriam particularly. I do understand the violent
12 secondary implicit nature of drug dealing. I'm not minimizing
13 that in any way and neither is Miriam. But there's no violence
14 that's tied to Miriam in any way in this case.

15 She does respect the law, Your Honor. 43 months
16 without seeing her family has been devastating. Showing some of
17 that respect or proof of some of that respect, Your Honor, I
18 would point out that she was second among the group plea
19 defendants to enter her group plea in this case. I know she
20 wasn't the first defendant to plea. I'm not making that
21 argument. But she was second among the group of folks to enter a
22 plea in this case.

23 Your Honor, I think that the -- the request for 120
24 months would also avoid sentencing disparities in this case.

25 Four of the five defendants that Your Honor has sentenced already

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 32

1 received sentences of 48 months or 43 months. One of them
2 received a sentence of 90 months.

3 Your Honor, if the Court views Miriam as the leader
4 of this group, which again, I respect the Court's decision there,
5 adding from the difference of 90 to 120 months, adding 30 months
6 I think would be the appropriate designation in this case.

7 Lastly, Your Honor, I'll submit that, again, adding
8 personal touches that I normally don't do, my client sends me a
9 Christmas card and wishing me well wishes for my family, right,
10 while she's in pretrial confinement, knowing that she has a large
11 sentence ahead of her, knowing that Your Honor could decide just
12 as Your Honor decided today, which was that she was a leader and
13 she wasn't going to get the safety valve, knowing that. That's
14 somebody who respects the law.

15 She respects the situation she's in, which she's put
16 herself in. 120 months is the appropriate and just sentence in
17 this case, Your Honor.

18 **THE COURT:** Ms. Suarez-Contreras, you're entitled to
19 speak during this proceeding if you'd like. You don't have to.
20 But if there's anything you'd like to say, now is the time.

21 You can remain seated and be comfortable. Just make
22 sure you -- let's have her tell the translator, then -- yeah.
23 That way, we'll get the English translation on the microphone.

24 **THE DEFENDANT:** Dear Judge, first of all, good
25 morning. With all due respect to Ms. Melanee Smith, the fact

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 33

1 that my father was an alcoholic or used drugs doesn't mean that I
2 have -- do not have good communication, respect, and love for
3 him.

4 I don't know if what my dad did dragged me down or
5 not. And he also did not lead me down a bad path. Whatever his
6 vices may have been, he did teach me values.

7 I just want her to know my father is deceased, and it
8 hurts me that she says something negative about him or about me.
9 And that is it.

10 I'd like to say something to Your Honor.

11 **THE COURT:** Please.

12 **THE DEFENDANT:** My name is Miriam Elizabeth
13 Suarez-Contreras. I'm 43 years old. I've got three children. I
14 am a single mother.

15 I'd like to ask for forgiveness from the United
16 States of America. I know that I made a mistake. There's no
17 doubt that this has been the biggest mistake of my life, and I'm
18 here paying for it. I am accepting that I am guilty.

19 In these 43 months that I've been in the detention
20 center, I've realized the impact that people have, people who use
21 drugs. And I'd like to ask for forgiveness for all those people
22 that I've hurt. I didn't only just do it to them. Also the
23 children and to those children's families.

24 I know that being under the influence of drugs has a
25 very significant impact because I see -- I see my -- my

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 34

1 colleagues. So many of them have lost their children. Thank God
2 I still have my children. And it's for them and for this country
3 that I am remorseful because I let them down, because I'm a woman
4 who has so many faults.

5 I'd like to ask you to please give me the
6 opportunity, of course, if you'd like. I know that I'm in your
7 hands. And whatever it is that you decide, either way, thank you
8 so much for your attention, for your time.

9 **THE COURT:** You're welcome. Thank you.

10 Officer Conover, does probation have anything to add?

11 **OFFICER CONOVER:** No, Your Honor.

12 **MR. TANASI:** Your Honor, I apologize. If I may, we
13 have two speakers contemplated for today.

14 Is that okay if --

15 **THE COURT:** Absolutely.

16 **MR. TANASI:** -- we call them now --

17 **THE COURT:** Absolutely. Have them come forward to
18 the microphone there in the back.

19 **MR. TANASI:** Thank you.

20 **THE COURT:** Hi. Good morning. If you would just
21 state and spell your name slowly into the microphone there so we
22 get it correct in the record, please.

23 **MS. M. SUAREZ:** Okay. Hi, good morning, Your Honor.
24 My name is Miriam, M-I-R-I-A-M, Geovanna, G-E-O-V-A-N-N-A,
25 Suarez, S-U-A-R-E-Z.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 35

1 | THE COURT: Good morning.

2 **MS. M. SUAREZ:** Good morning. I am Miriam's oldest
3 daughter. I'm sorry.

6 MS. M. SUAREZ: I was -- I was prepared, but I fell
7 through now. I'm so sorry.

8 I'm here today to speak to you about my mom. My mom
9 is one of the sweetest, kindest person you will ever meet. I'm
10 not only saying that because she's my mom, but if you ask anybody
11 in this room, her friends inside the detention center, they will
12 tell you that she is a kind person.

13 When my mom left -- before my mom left, all the
14 family used to always be connected. We were always in family
15 gatherings, and we were always happy and came. The day she left,
16 our whole family fell apart. Everybody started talking to
17 everybody. Everything just fell apart.

18 But I at least tried to keep my brothers together
19 because I always saw her, that even after everything she went
20 through, her and her brothers always stayed together and
21 connected. So me, as the oldest, I tried always to be with my
22 brothers and protect my brothers.

23 Before I became a mother, I didn't know what love was
24 and what family really meant. I was a teenager then. Didn't
25 really care. I was just living my life as day as day.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 36

1 The day I became a mom, me and my mom created a bond
2 that no one, nobody, could ever break. My brothers and I went
3 through so much the day she left. There was a tragedy that
4 happened. We never spoke about it because we were scared because
5 we were alone. Yes, we had family, but it didn't feel right to
6 tell because they're not our mom, right? Like she said, she's a
7 single mom. We always been just us four.

8 It hurts me that she's not here to see my kids grow
9 up. And I know it hurts my son. He's a five-year-old, but as
10 soon as he seen -- she left when he was one. As soon as he saw
11 his grandma, he started tearing up. And I don't know how does he
12 know and how does it affect him as being a five-year-old. He
13 knows. And it hurts him, and it also caught me. I see him
14 tearing up as he saw his grandma.

15 I have three kids. I have a five-year-old, a
16 three-year-old, and a one-year-old. She doesn't know. She's
17 never met the three-year-old or the one-year-old. She's only met
18 them through FaceTime when she calls us.

19 When my mom left, she was the -- before my mom left,
20 she was the one that would always cook for us. If I wanted a
21 meal, she'll make me a meal. If my brother wanted something,
22 she'll make something. Sometimes she'll make three different
23 meals because I'm really picky. I don't like a lot of stuff.

24 And let me tell you, I didn't even know how to boil
25 beans. I didn't know how to make an egg, and I was 19 years old.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 37

1 I know that's really funny, but I didn't know how to boil eggs.
2 I would wait for her calls all the time to ask her, How do you
3 boil eggs? How do you do this? so I could cook for my boyfriend,
4 my son, and my two brothers.

5 Sometimes I would burn the easiest food, and my
6 brothers would still manage to tell me they were good, even
7 though deep down they knew they were lying to me.

8 She taught me so many things through the phone. I
9 would wait for her calls all the time before it was time for my
10 brother and my boyfriend to come home so I could cook a meal
11 because I didn't know how to do anything.

12 I learned so many when she left because you always
13 think that everyone is there for you and everything. In reality,
14 there isn't. You never know how much you love a person or how
15 much you need a person until they're not here anymore.

16 And I think and I believe that my mom should be out
17 because we really need her a lot. I never -- you can ask her. I
18 never told her I love you before, when she was with us. I would
19 never hug her because I thought I was cringe to me. I am so
20 sorry, but it's just the truth. I just thought it was cringe to
21 hug my mom or tell her I love you. I would always see my friends
22 tell their moms I love you or hug them, and I wouldn't.

23 The day my mom left, for the past four years, I
24 think, three about to be four, every time she calls, I always
25 tell her I love you. And now I really wish I could just give her

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 38

1 one hug.

2 Thank you, Your Honor.

3 **THE COURT:** Thank you for coming forward. I know
4 it's not easy.

5 **MR. TANASI:** Thank you, Your Honor.

6 Francisco.

7 **THE COURT:** Good morning. If you would state and
8 spell your name for the record, please.

9 **MR. F. SUAREZ:** Francisco Suarez.

10 **THE COURT:** Let's pull the microphone up closer to
11 our translator.

12 **MR. F. SUAREZ:** Francisco Suarez.

13 **THE COURT:** Thank you.

14 **MR. F. SUAREZ:** Good morning.

15 **THE COURT:** Good morning.

16 **MR. F. SUAREZ:** I'd like to tell you, whatever it is
17 that you decide, I think it will -- it will be the just decision.
18 I'd also like to let you know that her family needs her because
19 she's very important for us. And whatever -- whatever it is that
20 you decide will be the best thing.

21 I do not wish to waste your time and that's all.

22 **THE COURT:** It's not a waste of time. Thank you for
23 coming forward. I know it's not easy.

24 **MR. F. SUAREZ:** Okay. That's all.

25 **THE COURT:** Thank you.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 39

1 Anyone else, Mr. Tanasi?

2 **MR. TANASI:** No, Your Honor. Thank you.

3 *(Pause.)*

4 **THE COURT:** As I mentioned earlier, after I look at
5 the statute and the sentencing guidelines, I look at another
6 statute known as 18 U.S.C. section 3553(a). That statute
7 requires me to consider the nature and circumstances of the crime
8 you've committed and your personal history and characteristics.

9 That statute also tells me that I have to impose a
10 sentence that tries to do a number of things. That sentence has
11 to reflect how serious this crime is. It has to promote respect
12 for the law and provide just and appropriate punishment. My
13 sentence has to deter you and others from committing these crimes
14 in the future. I need to protect the public from future crimes
15 you may be committing. I need to provide education, training,
16 counseling, things to help you reintegrate back into society.
17 And I need to avoid sentencing disparities. That means I need to
18 take into account sentences imposed on others similarly-situated
19 defendants. So there are a lot of factors I have to consider
20 under that statute.

21 With regard to the crime you've committed, it is a
22 very serious one. Methamphetamine is having a terrible impact on
23 our community. People are dying or ruining their lives from this
24 poison. If your kids had gotten ahold of this methamphetamine
25 and died, overdosed, or ruined their lives by becoming addicted,

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 40

1 maybe you would have thought twice about what you were doing.
2 But other people's kids are dying from this stuff. Other
3 people's wives and husbands are dying or ruining their lives.
4 And you were helping spread this poison in our community for
5 several years and a large amount of it. That has a huge impact
6 on our society. And so, a lengthy custodial sentence is
7 appropriate.

8 And as Ms. Smith points out, to involve a juvenile, a
9 minor, in these activities makes it even worse. The guideline
10 range accounts for that with a two-level adjustment.

11 This obviously was not your first time committing
12 this crime because you were able to access large amounts of this
13 poison and supply it to your customers over a long period of
14 time. Customers knew to call you directly for methamphetamine.
15 That just doesn't happen overnight. There has to be some kind of
16 trade, some kind of pattern established so people know who to
17 call.

18 You had to have developed a relationship with
19 suppliers above you in the chain to know who to call to get this
20 drug transported here to Las Vegas. So you had to have developed
21 a relationship above you and below you in this chain over a
22 period of time.

23 I agree, you were not the king pin of this drug
24 cartel, but you were significantly involved in a high level for a
25 long period of time.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 41

1 I don't know why you got involved in this. You have
2 good family support. You're raising good children and raised
3 good children. And oftentimes, with crimes, that's the
4 collateral damage we see; that the families get punished, in a
5 sense, because the defendant is taken away from them for a while.
6 And that's a shame, but that's the risk that someone undertakes
7 when they commit these crimes.

8 I'm glad you're staying active while you're in
9 custody and taking courses and trying to improve yourself. I
10 hope you will also stay in communication with your family and
11 teach them not to follow the path you took, teach them that bad
12 acts lead to bad consequences. And you're a living example of
13 that.

14 But you can also teach them there's such a thing as
15 rehabilitation and that just because you find yourself going down
16 a bad path doesn't mean you have to continue to do that and that
17 you can change course no matter how tough it seems and not expose
18 yourself to this kind of problem. So I hope you will teach your
19 children and grandchildren that, because at some point, you will
20 come out of custody, and you will still be a young woman. You
21 may not feel like it, but you still have a long life ahead of you
22 if you can get yourself together and get a job and stay in
23 contact with your family.

24 The parties have negotiated a two-level downward
25 variance for a group plea. I will honor that. I will also honor

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 42

1 the government's two-level downward variance in the plea
2 agreement. That takes the total offense level to 33.

3 So the guideline range, as Ms. Smith points out, is
4 135 to 168 months in custody.

5 There still is a mandatory minimum of 120 months in
6 custody. I can do nothing about that. Congress has required
7 that someone convicted of this crime must serve at least ten
8 years in prison. I cannot do anything about that.

9 And I have no control over the deportation decision.
10 That's not my jurisdiction, either. I don't know if you will be
11 deported. In all fairness, it's probable that you will be. And
12 I take that into account in determining sentence, in part,
13 because you will have difficulties that American citizens would
14 not in that sense.

15 I have also repeatedly held that the sentencing
16 guidelines for this crime are very high and bear no relationship
17 often to the facts or the defendant's true culpability. The
18 guideline ranges are not based on empirical evidence, and so I
19 often vary downward to ensure that the sentence in a particular
20 case is based upon a thoughtful application of the 3553(a)
21 factors instead of an artificial congressional decision that
22 results in a huge sentence that may not apply.

23 But I also recognize in this case that we're dealing
24 with a significant amount of methamphetamine and a defendant who
25 is involved in this conspiracy for a long period of time. So a

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 43

1 lengthy custodial sentence is necessary based on the 3553(a)
2 factors to deter this conduct and to sufficiently punish the
3 defendant for her actions and also to recognize the seriousness
4 and detrimental impact on the community that's caused by all
5 this.

6 After considering the 3553(a) factors, I do find that
7 this remains in the heart line -- heartland of the guidelines,
8 and I don't see a basis for a downward variance under 3553(a).

9 So I will impose a sentence of 135 months in custody.
10 A mandatory penalty assessment of \$100 is due immediately. I
11 will not impose a fine. I will impose a term of five years of
12 supervised release.

13 Mr. Tanasi, on pages 32 and 33 of the presentence
14 report are recommended conditions of supervision.

15 Do you have any objections to those?

16 **MR. TANASI:** Your Honor, no objections. I will
17 submit, though, the Court doesn't necessarily have to impose
18 supervised release, a term of supervised release in this case.
19 The guidelines, I think, if you contemplate that since she is not
20 a U.S. citizen, 5D1.1 does say the court ordinarily impose a term
21 of supervised release in a case in which supervised release is
22 not required by statute --

23 (*Whereupon, the reporter interrupts to preserve the*
24 *record.*)

25 **THE COURT:** Yup. Slow down.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 44

1 **MR. TANASI:** I apologize, I apologize. -- and the
2 defendant is a deportable alien who likely will be deported after
3 imprisonment.

4 **THE COURT:** My recollection is that supervision is
5 required under the statute.

6 **MR. TANASI:** You are 100 percent correct, Your Honor,
7 and I apologize for wasting the court's time on that.

8 **THE COURT:** That's all right. No, no, no. It's good
9 to ask. And let's make sure of that.

10 I do have -- I have to impose a mandatory minimum of
11 five years of supervised release; is that correct,
12 Officer Conover?

13 **OFFICER CONOVER:** Yes, Your Honor. Per statute.

14 **THE COURT:** Per statute, yes.

15 **MR. TANASI:** Per statute, Your Honor. I apologize.

16 **THE COURT:** That's all right. No. No worries.

17 Any objections to the conditions set forth on 32 and
18 33 of the PSR?

19 **MR. TANASI:** No, Your Honor.

20 **THE COURT:** All right. Any objections to those,
21 Ms. Smith?

22 **MS. SMITH:** No, Your Honor.

23 **THE COURT:** I will impose the standard and mandatory
24 conditions recommended by the sentencing commission and the
25 special conditions recommended on pages 32 and 33 of the

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 45

1 presentence report. I'll summarize those for you so you
2 understand them.

3 You must not have any contact or otherwise interact
4 with your co-defendants in this case, either directly or through
5 someone else, without first obtaining the permission of the
6 probation office. You'll be subject to a search and seizure
7 requirement.

8 I'm sorry. Go ahead and chat.

9 *(Counsel and defendant conferring.)*

10 **THE COURT:** You'll be subject to search and seizure
11 requirement of your person, property, house, residence, vehicle,
12 papers, computers, and other electronic devices. The search can
13 be conducted by a probation officer based upon a reasonable
14 suspicion that the area to be searched will reveal evidence of a
15 violation. The search will be conducted at a reasonable time and
16 in a reasonable manner.

17 And finally, if you are ordered deported, you must
18 remain outside the United States unless legally authorized to
19 reenter. If you reenter the United States, you must report to
20 the nearest probation office within 72 hours.

21 Officer Conover, do you have a copy of those
22 conditions in Spanish for our defendant?

23 **OFFICER CONOVER:** Yes. I have them in Spanish and
24 English.

25 **THE COURT:** Thank you.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 46

9 I find all of these conditions are reasonably related
10 to the goals of deterrence, protection of the public, and the
11 defendant's rehabilitation, and they involve no greater
12 deprivation of liberty than is reasonably necessary to achieve
13 those goals.

14 Ms. Suarez-Contreras, can you please acknowledge on
15 the record that you've been given a copy of those conditions in
16 English and Spanish.

17 | THE DEFENDANT: Yes.

18 **THE COURT:** I need to advise you that if you violate
19 those conditions, I can revoke your supervised release, and you
20 can be sent back to prison, potentially for up to the full amount
21 of time of supervised release and potentially without any credit
22 for time served on supervised release.

23 One of those conditions is if you are deported, you
24 cannot return without permission from the United States
25 government. I know there's a strong attraction to come back

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 47

1 because you have family here. Please have them come visit you in
2 Mexico if you're deported. It's better to visit them in person
3 and to hug them in Mexico than it would be to visit them in
4 prison here in the United States.

5 As I said earlier, I have no control over the
6 deportation process or proceeding. I have no jurisdiction over
7 that. That's a different judge's decision in that regard.

8 But please don't violate those conditions because
9 that will be a violation of conditions that I can send you back
10 to prison for. And if you come back illegally, that would be a
11 new crime that could further increase the prison sentence for
12 that case.

13 I also need to remind you that in your plea
14 agreement, you waive most of your rights of appeal. You have
15 some very limited rights you still have to appeal your conviction
16 and sentence.

17 Speak to Mr. Tanasi right away so you can make an
18 informed decision. You have 14 days from the entry of judgment
19 in which to file a notice of appeal. If you can't afford an
20 attorney for the appeal, one will be appointed at the
21 government's expense. If you can't afford a copy of the
22 transcript for the appeal, that, too, will be prepared at the
23 government's expense.

24 But speak to Mr. Tanasi right away so you can make an
25 informed decision.

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 48

1 Mr. Tanasi, does your client have a preferred
2 facility to be designated to serve her time?

3 **MR. TANASI:** Yes, Your Honor. Dublin.

4 **THE COURT:** I'll recommend Dublin based on proximity
5 of family.

6 **MR. TANASI:** Thank you, Your Honor.

7 **THE COURT:** You're welcome.

8 Ms. Smith, is the government moving to dismiss the
9 other charges against this defendant?

10 **MS. SMITH:** Yes. I believe there are 16 additional
11 counts, and the government moves to dismiss those at this time.

12 **THE COURT:** All the other counts against the
13 defendant -- I believe there are 16 -- are hereby dismissed --
14 charges against the defendant in this case are hereby dismissed.

15 Anything else I can do for the parties?

16 **MS. SMITH:** Not for the government, Your Honor.

17 **MR. TANASI:** Not for defense. Thank you, Your Honor.

18 **OFFICER CONOVER:** No, Your Honor.

19 **THE COURT:** All right. The defendant is remanded to
20 the marshals custody. We're in recess on this matter. Thank you
21 all.

22 **MR. TANASI:** Thank you.

23 **MS. SMITH:** Thank you, Judge.

24 **COURTROOM ADMINISTRATOR:** All rise.

25 *(Proceedings adjourned at 10:21 a.m.)*

2:19-cr-00133-APG-VCF - Wednesday, December 28, 2022 49

1

---oo---

2

COURT REPORTER'S CERTIFICATE

3

4

5

6

7

I, Paige M. Christian, Official Court Reporter, United States District Court, District of Nevada, Las Vegas, Nevada, do certify that pursuant to 28 U.S.C. § 753, the foregoing is a true, complete, and correct transcript of the proceedings had in connection with the above-entitled matter.

8

9

DATED: February 11, 2023

10

11

/s/ Paige M. Christian

Paige M. Christian, RPR, CRR, CCR #955
Official Court Reporter
United States District Court
District of Nevada

12

13

14

15

16

17

18

19

20

21

22

23

24

25